REMARKS

Office action summary

Claims 1-7 and 9-32 are pending in the present application. Claim 1 is presently amended. No claims are presently cancelled or added. The following rejections were made in the office action of February 6, 2009 ("Office Action"):

- Claim 1 was rejected under 35 USC § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- Claims 1-7 and 9-32 stand rejected under 35 USC § 102(e) as being anticipated by Barnett et al, US Patent 6,369,840 ("Barnett").

The amendment and rejections are discussed below. The examiner is respectfully urged to reconsider the application and withdraw the rejections. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call applicants' undersigned attorney, Jon M. Isaacson, at **206-332-1102**.

Rejections under 35 USC § 112

Claim 1 was rejected under 35 USC § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the examiner argued that the term "may be" in the claim renders the claim unclear because it cannot be determined what is being performed.

Without conceding the propriety of the rejection, applications presently amend claim 1 to remove the clause which contained the words "may be." Thus, applicants submit that claim 1 complies with 35 USC § 112, ¶ 2. Accordingly, applicants respectfully request withdrawal of the rejection.

Rejections under 35 USC § 102

Claims 1-7 and 9-32 stand rejected under 35 USC § 102(e) as being anticipated by Barnett. Applicants respectfully submit that claims 1-7 and 9-32 are patentably defined over Barnett.

Anticipation is a strict standard: "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (MPEP § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) Further, "[t]he identical invention must be shown in as complete detail as is contained in the...claim." (MPEP § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).) Thus, for applicants' claims to be anticipated by Barnett, the examiner must show that each and every element of applicants' claims are found in Barnett in as complete detail as recited in the claim.

Claim 1 recites, in part, "a first data store comprising *multimedia files* having *historical information* wherein the multimedia files are generated by at least one multimedia application program." (Emphasis added.) In the Office Action, the examiner cited to Barnett's event directory as teaching the recited first data store of claim 1. (Office Action, page 3-4.) In the cited figures and text, Barnett describes the event directory as containing "Event Schedules that match [the user's] interest" (Fig. 6) and each event category includes "sports team schedules, release dates, schedules of conferences on a particular topic, meeting schedules related to a particular project or company, and the like" (col. 9, ll. 55-59). By subscribing to an event, the user can create a calendar of upcoming events that are of interest to the user. (Col. 9 line 60 – col.10 line 10.) Applicants submit that Barnett anticipate claim 1 for at least the follow two reasons.

First, in contrast to the cited teachings of Barnett, claim 1 recites that the first data store comprises multimedia files. Applicants specification provides a number of non-limiting examples of multimedia files, including audio files and video files. (Specification, paras. 0004 and 0034.) Applicants submit that the information about events in Barnett's event directory fail to teach the multimedia files recited in claim 1.

Second, claim 1 recites that the multimedia files have historical information. As discussed above, the events in Barnett's event directory are upcoming events. Because the events are upcoming, any information associated with the events is information about the future, not historical information. Thus, even assuming, *arguendo*, that the events in Barnett's event directory teach the recited multimedia files, Barnett fails to teach that the events in the event directory have historical information.

For at least these reasons, applicants submit that Barnett fails to anticipate claim 1. Accordingly, applicants respectfully request withdrawal of the rejection of claim 1 under 35 USC § 102(e) as anticipated by Barnett.

Independent **claims 12 and 22** contain recitations similar to those recitations of claim 1 discussed above. For at least the reasons similar to those discussed above regarding the patentability of claim1, applicants submit that claims 12 and 22 are patentably defined over the cited art. Accordingly, applicants respectfully request withdrawal of the rejection of claims 12 and 22 under 35 USC § 102(e) as anticipated by Barnett.

Claims 2-7, 9-11, 13-21, and 23-32 depend, directly or indirectly, from claims 1, 12, and 22. Inasmuch as claims 2-7, 9-11, 13-21, and 23-32 depend from independent claims which are patentably defined over the cited art, applicants submit that claims 2-7, 9-11, 13-21, and 23-32 are patentably defined over the cited art. Accordingly, applicants respectfully request withdrawal of the rejection of claims 2-7, 9-11, 13-21, and 23-32 under 35 USC § 102(e) as anticipated by Barnett.

Conclusion

Applicants believe that the present remarks are responsive to each of the points raised by the examiner in the Office Action, and submit that claims 1-7 and 9-32 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

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